

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**RUTH ANN WISE,**

**Petitioner,**

**v.**

**Civil Action No. 2:10CV10  
Criminal Action No. 2:05CR6  
(Judge Maxwell)**

**UNITED STATES OF AMERICA,**

**Respondent.**

**ORDER**

It will be recalled that on April 6, 2010, Magistrate Judge John S. Kaull filed his Report and Recommendation, wherein the Petitioner was directed, in accordance with 28 U.S.C. § 636(b)(1), to file with the Clerk of Court any written objections within fourteen (14) days after being served with a copy of the Report and Recommendation. No objections to the Magistrate Judge's Report and Recommendation have been filed. Accordingly, the Court will review the Magistrate's Report and Recommendation for clear error.<sup>1</sup>

Upon examination of the report from the Magistrate Judge, it appears to the Court that the issues raised by the Petitioner in her Motion to Vacate, which was filed pursuant to 28 U.S.C. §2255, were thoroughly considered by Magistrate Judge Kaull in his Report and Recommendation. Moreover, the Court, upon a review for clear error, is of the opinion that the Report and Recommendation accurately reflects the law

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<sup>1</sup>The failure of a party to object to a Report and Recommendation waives the party's right to appeal from a judgment of this Court based thereon and, additionally, relieves the Court of any obligation to conduct a *de novo* review of the issues presented. See Wells v. Shriners Hospital, 109 F.3d 198, 199-200 (4<sup>th</sup> Cir. 1997); Thomas v. Arn, 474 U.S. 140, 148-153 (1985).

applicable to the facts and circumstances before the Court in this action. Therefore, it is

**ORDERED** that Magistrate Judge Kaul's Report and Recommendation be, and the same hereby is, accepted in whole and that this action be disposed of in accordance with the recommendation of the Magistrate Judge. Accordingly, it is

**ORDERED** that the Petitioner's §2255 Motion be, and the same hereby is, **DENIED**. It is further

**ORDERED** that the above styled action be, and the same hereby is, **DISMISSED** with prejudice and **STRICKEN** from the docket of this Court. It is further

**ORDERED** that, pursuant to Rule 11(a) of the Rules Governing Section 2254 and Section 2255 Cases, this Court declines to issue a certificate of appealability as Petitioner has not made a substantial showing of a denial of a constitutional right. 28 U.S.C. §2253(c)(2); Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003) (in order to satisfy §2253(c), a petitioner must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong (citing Slack v. McDaniel, 529 U.S. 473, 484 (2000))).

**ENTER:** May 4<sup>th</sup>, 2010

/s/ Robert E. Maxwell  
United States District Judge